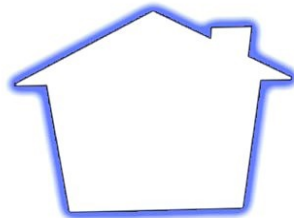




PORTUGAL PROPERTY EXPERTS
PROFESSIONAL ESTATE AGENTS

Buying Property in Portugal

An Introductory Guide Produced By Portugal Property Experts



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Introduction

So you've fallen for Portugal's charm and potential and are looking to invest in its property market.

To help you choose the right property for you it is worth asking yourself these questions:

- Are you looking for a holiday home, a retirement home, an investment, or a permanent residence?

This will help you focus on your priorities- for example being close to international schools, health care, an airport, the beach, shops, lots of amenities and things to do or having a swimming pool. Do you want to enjoy an active social life or do you prefer peace and quiet? What climate suits you best- the weather varies considerably between Portugal's regions- see www.portugal-sport-and-adventure.com for more information.

- Would you prefer to live in a popular holiday destination, a more traditional Portuguese town or in the countryside?
- Are you interested in buying in an established area with good returns or are you willing to take more of a risk and invest in a potentially up-and-coming area for the chance of even higher returns?
- Are you more comfortable living in an area with a mix of Portuguese people and ex-pats. Are you willing to learn Portuguese or would you prefer to be able to speak English if needs be?
- Are you interesting in renting your house out and are you relying on the rental income to help pay the mortgage? If so you are best off buying in a popular tourist area or major city.
- How much time do you have to care for your property, garden or pool? If you're not going to be there a lot or are renting out and are concerned about security and maintenance you might be better off buying in a condominium.

- Are you interested in buying off-plan? This can be an attractive way of investing with minimum outlay. Generally speaking 10% is required as a deposit and staged payments follow until completion. Most banks will lend up to 80% and you can benefit from interest only mortgages and only pay the remaining 10%, stamp duty and other fees two years down the line. This is very popular with investors due to the high return this type of investment can bring.

The good news is that once you've found the perfect property the buying process in Portugal is relatively simple and straightforward.

We always recommend you buy through an AMI Licensed Agent and that the agent has a valid license. This license is granted by the governing body INCI (Instituto da Construção e do Imobiliário) formerly known as IMOPPI. This serves as a guarantee that the individual estate agent has complied with numerous regulations to exercise the profession of estate agent in Portugal. Licensed estate agents also have insurance cover that may be claimed against if they don't conform to the highest standards. Make sure that your agent not only has a license but that it's actually valid.

This booklet is intended to guide you through the process of buying property in Portugal but we recommend that you also seek expert legal advice and use an English speaking local lawyer. Your estate agent can usually recommend several good ones.

The Buying Process and Taxes

Once you've found a suitable property the procedure is usually as follows:

A **Contrato de Promessa de Compra e Venda** (Promissory Contract similar to Exchange), will be drafted up by your lawyer whereby you promise to buy the property for a given sum and the vendor agrees to sell it. Your lawyer should at this stage ask the vendor to supply the following documentation:

1. **Caderneta Predial** (Tax Registration Document) from the Finanças (Tax Office) which shows the tax situation of the property including the property's inscription for fiscal purposes, the current owner, the property's fiscal number etc..
2. **Certidão de Teor** (Land Registry Document)- This document shows who owns of the property, who has rights to the property and if there are any charges, mortgages or incumbrances registered against the property. It basically provides you with the history and the general standing of the property.
3. **Licença de Habitabilidade** (Habitation License) for properties built after 1951 a habitation license is required. This document shows that the property has, at some time in the past, obtained a certificate deeming it fit for human habitation. The licence is obtained at the Council.
4. **Ficha Técnica de Habitação** (The Property's Technical Report) This document is required for properties built or altered after 1st January 2004. It contains the builder's details, materials used by the builder, who supplied them and other relevant technical information on the property and construction process. The builder should supply the report where necessary.
5. **The Property's Plans** - these should also be supplied and ask your lawyer to check that everything is as it should be and that no significant modifications have been made which may affect your enjoyment of the property.

6. **Identificação Fiscal** (Fiscal Number) As a future home owner you will also be required to get one of these from the Local Tax Office. Usually your lawyer will take care of this for you.
7. **Survey-** A structural survey is not a legal requirement under Portuguese law and banks don't usually ask for it either on most properties, but you know the saying "If in doubt, check it out" particularly if you're looking at older properties

Amongst other things your lawyer should also look into whether the property you're buying is currently rented to a third party. If it is, the tenant can in certain circumstances exercise the right to purchase.

If you're buying an agricultural plot (rústico), the neighbours can have the right to purchase. So check these little details out and avoid unnecessary headaches.

Once you and your lawyer are satisfied that everything is order, you can then proceed to the signing of the Promissory Contract.

A 10% per cent deposit is usually required at this stage, although this can vary.

The contract is legally binding and the law states that should you change your mind and decide not to proceed with the purchase, you forfeit your deposit. On the other hand should the vendor withdraw from the sale s/he has to repay double the original deposit handed by the buyer.

Escritura (Deed of Completion)

After the Promissory Contract and if everything is in order you can in the following weeks proceed to the Escritura (Completion). This is done in a Notary's Office. The Escritura is the legal document which shows ownership of the property and you get a copy a few days after the Escritura.

Notary

The Notary is a neutral government legal representative who is there to ensure that all the documentation is in order, all taxes have been paid and serve as a witness to the property during Escritura and ensures that every legal aspect is adhered to. Once the Notary is satisfied that every legal aspect of the transaction has been adhered to s/he will reads out the clauses in the Escritura; if a translator is needed your lawyer should be able to help with this.

The buyer, seller and the Notary will then sign the Escritura (Deed of Completion). A few days later your title to the property should be entered at the Land Registry.

You're also required to register the purchase at the Finanças (Tax Office) within 60 days. If you're a tax resident in Portugal you can apply for IMI (Council Tax) exemption; properties of up to €157.500 are eligible to 6 years Council Tax exemption; properties between the values of €157.500 – 236.250 are eligible for a 3 year Council Tax exemption.

Prior to Escritura de Compra e Venda (Completion) you are required to pay **IMT** (a type of Stamp Duty for the local authority). This Stamp Duty goes up in platforms in accordance with the value of the property and also if it's a main or second residence. To illustrate please see the two Tax Office percentage scales below:

Main Residence

Value of Property Transaction	% Tax Payable	Amount to Deduct
Up to €89,700	0%	0
From €89,700.01 to €122,700	2%	€1,794
From €122,700.01 to €167,300	5%	€5,475
From €167,300.01 to €278,800	7%	€8,821.06
From €278,800.01 to €557,500	8%	€11,608.95
Over €557,500.01	6%	0

Second Home

Value of Property Transaction	% Tax Payable	Amount to Deduct
Up to €89.700	1%	0
From €89,700.01 to €122,700	2%	€897
From €122,700.01 to €167,300	5%	€4,578.06
From €167,300.01 to €278,800	7%	€7,924.00
From €278,800.01 to €534,700	8%	€10,712.05
Over €534,700.01	6%	0

Value of Property Transaction	% Tax Payable
Rustic and Agricultural Plots	5%
Other Property and Urban Plots	6.5%
Offshore in Blacklisted Jurisdictions	8%

Please contact us for more information on IMT scales in Madeira and the Azores as they vary from the mainland.

EXAMPLE:

You're purchasing a three bedroom villa in mainland Portugal for €450,000 as a second home, your IMT calculation would be as follows:

$€450,000 \times 8\% = €36,000 - €10,712.50 = €25,287.50$ **ACTUAL amount of IMT payable because the Tax Office gives a deductible allowance on most of the platforms.**

The IMT payment must be made **PRIOR** to the Escritura de Compra e Venda (Completion) which can take place at any Notary Office in the country. If you do not make this payment, the Notary will not allow Completion to take place.

There is also a 0.8% **Imposto de Selo** (Stamp Duty) cost of the value of the property at the Notary's Office on Completion. So for your villa you would pay **€3.600** to the Notary on Completion.

If you're borrowing from a Portuguese bank there is a further 0.6% Stamp Duty on the amount borrowed. So for instance if you borrowed €350.000 from PPP Bank there is a further **€2.100** to pay.

Where borrowing is involved the procedure is slightly different in the sense that the bank does a provisional registration of their and your interest in the Land Registry prior to Completion to protect both your and its interest in the property. This shouldn't cost more than €500 to €800. After completion the provisional registrations are converted at the Land Registry by the bank or your lawyer.

Purchasing costs vary depending on the value of the property you buy but also of course which lawyer you use. Lawyers' fees vary dramatically but be prepared to pay between 1%-1,5% of the purchase price although there have been lawyers know to charge as much as 3% of the sale price, which is bordering on the extortionate.

Allow 6 -10% for all your purchasing costs (this varies because of the deductible allowances of the IMT platforms).

So for your dream three bedroom villa in sunny Algarve worth €450.000 add another 8% to the purchase price to cover all costs including taxes, stamp duties, conveyancing, registrations etc for around; whereas a luxury villa worth €1.000.000 would probably cost you nearer the 10% mark.

Financial and Legal Matters

It is recommended that you open a Portuguese bank account to pay bills, taxes etc. Again your estate agent or lawyer should be able to help you with this.

If you're borrowing money to finance your home in the sun it's a good idea to check out the local banks. Banks in Portugal tend to give better interest rates than back in the UK and on average it takes 4-6 weeks for a mortgage to come through. We recommend you get several quotes as the market is very competitive.

In general banks tend to loan up to 80% of the property's valuation price. So in cases of a generous valuation you could borrow close to if not all the asking price of the property.

Procuração (Power of Attorney)- Many buyers tend to leave their lawyer a signed Power of Attorney with specific powers to sign the Promissory Contract, utility contracts and Complete on their behalf. This is easily done again in a Notary's office and takes on average half an hour and shouldn't cost more than €50. This is recommended if you don't have the time to come over regularly to sign and deal with the bureaucratic part of the process.

Currency Exchange - There are now numerous companies that do free foreign exchange and who can probably save you thousands on your home in the sun. This is usually quite a straightforward operation and shouldn't take more than 3 to 5 working days to transfer your money from your local bank account to your Portuguese account

Inheritance Tax & Wills

Inheritance Tax (IH) was abolished in 2004 for spouses, children, grandchildren, parents and grandparents. All other beneficiaries are subject to 10% (IH). Non residents are advised to make a Portuguese Will to make it easier to dispose of your Portuguese property.

Taxation

Non-residents generating income from property pay a 15% flat rate income tax and you must declare it in your annual income tax declaration (IRS form).

Although you can claim this as a tax credit in your home jurisdiction. Tax residents on the other hand engaged in letting out property on a short term basis as a business to tourists can benefit from 80% exemption and only pay tax on 20% of the generated income under the (Simplified Tax Regime). There are specific criteria attached to this so talk to your financial adviser.

Income Tax in Portugal is set between 10.5% and 42%, again income generated in Portugal can be claimed as a tax credit in your home jurisdiction.

Also bear in mind that if you spend more than 183 days in Portugal (this doesn't need to be consecutive), the Finanças (Tax Office) will consider you a tax resident.

Fiscal Representation

Non-resident homeowners are required to appoint a Fiscal Representative to ensure that your tax affairs are kept in order. Usually your lawyer will appoint one on your behalf as you need to pay your IMI charge and submit your tax return at the end of the year (which is compulsory under Portuguese law). As a guide for this service you shouldn't be charged more than €500 to 800 per year.

Capital Gains

Portuguese tax residents receive a 50% exemption before the capital gain is added to the normal income tax scales. You can deduct all buying and selling costs, capital improvements on the property in the last five years prior to selling. As a tax resident, if the property you sell is your main residence, then you can roll your profit over into your new home; you have up to two years from the sale date to do so. Non tax residents currently get charged 25% of the full capital gain.

Corporate Ownership

Corporate ownership can have substantial advantages over direct private ownership if well thought through. Not least in terms of benefiting from stamp duty exemption and reduced capital gains.

There are several structures to choose from including off-shore structures in white listed countries namely Malta and Delaware.

But as a whole from a property investment point of view and to maximise profit and reduce tax, a good solid structure worth considering is the **Portuguese Nominee Company**.

There are a number of advantages that make using this structure attractive:

- The company is only liable for 10% Capital Gains Tax (CGT) on the sales of the shares as opposed to 25% on other company structures. Furthermore, this is assessed on a flat rate and will not increase based on your profit.
- In addition, you can save a substantial amount of money on IMT, for example: most investors purchase a cheap property, pay the necessary IMT and then make the bigger investments in the **following calendar year** allowing for potential savings on the IMT if you dispose of the investment within the three year allowance period. Please note that to benefit from this no one shareholder can have more than 75% concentration of the company shares.
- Using the Nominee Company structure you also save on the 0.8% deed transfer tax.
- The Nominee Company structure also benefits also the Inheritance Tax (IH) exemption i.e. bequests upon death or gifts during a person's lifetime are not subject to IH. A spouse, children, grandchildren, parents and grandparents are also exempt from IH. All other beneficiaries are subject to 10% IH.
- Deductions on improvements to the property never run out in relation to CGT assessment as opposed to the 5 year allowance.
- Portuguese Nominee Companies are relatively cheap to run.

Annual Costs

IMI

This is similar to Council Tax and is based on the rateable value of your property not the real value. The rateable value for urban property is usually lower than the real market value and is based on a percentage scale ranging from 0.2% to 0.8% depending on the age of the property and Municipal Council Area your property's in, size, level of luxury and a few other factors. You don't have to work it out yourself as the Finanças will do this for you but as a quick guide we've given you an example below.

So for instance for your two bedroom apartment in Vilamoura with a market value of €250.000 a quick way to give you an estimate of your yearly IMI costs would be as follows:

Vilamoura is in the 0.45% - 0.72% scale (depending on the age of the property) bracket and having worked out that your property's rateable value is approximately $€210.000 \times 0.45\% = €945$ per year. IMI is paid in two instalments in April (€472.50) and September (€472.50).

Offshore companies in whitelisted jurisdictions pay 1% IMI

Condominium Charge

If your property is in a gated complex you will also have to pay a yearly condominium charge. Basically a management company will look after the green areas, pool etc for a yearly fee; these vary from complex to complex as the managing companies looking after them are privately run enterprises but as a guide your two bedroom apartment in Vilamoura in a private complex with 20 apartments would probably cost in the region of €600 - €800 per year.

This guide was written for portugal-sport-and-adventure.com by Miguel Menezes the director of Portugal Property Experts a licensed estate agents based in Almancil in the Algarve. You can visit their website www.portugalpropertyexperts.com or contact him by emailing miguel@portugalpropertyexperts.com

Reasonable care has been taken to provide accurate advice in this free e-book, we do however recommend you seek independent financial and legal advice when purchasing in Portugal.